REMARKS

Status of the Application

Claims 19-28 and 33-47 are pending in the present application. Claims 20-26, 37-38, 42, and 47 are presently amended. No claims are presently added or canceled. The following rejections were made in the office action of January 14, 2010 ("Office Action"):

- Claims 19-20, 24-27, 33-34, 36-39, 41-44, and 46-47 were rejected under 35 USC § 103(a) as being unpatentable over Alexander et al, US Patent 6,177,931 ("Alexander"), in view of Picco et al, US Patent 6,092,045 ("Picco").
- Claims 21-22, 35, 40, and 45 were rejected under 35 USC § 103(a) as being unpatentable over Alexander, in view of Picco, and further in view of Official Notice.
- Claim 23 was rejected under 35 USC § 103(a) as being unpatentable over Alexander, in view of Picco, and further in view of Tsuchiya et al, "High Density Digital Videodisc Using 635nm Laser Diode" ("Tsuchiya").
- Claim 28 was rejected under 35 USC § 103(a) as being unpatentable over Alexander, in view of Picco, and further in view of Fisher et al, US Patent 5,835,896 ("Fisher").

The rejections are discussed below. The examiner is respectfully urged to reconsider the application and withdraw the rejections. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call applicants' undersigned attorney, Jon M. Isaacson, at **206-332-1102**.

Telephonic interview

On March 11, 2010, applicants' undersigned attorney and Examiner Nguyen-Ba conducted a telephonic interview. Applicants' undersigned attorney would like to thank the examiner for granting the interview. During the interview, applicants' arguments were discussed without reaching any agreement. Any further substance of the interview is incorporated into the remarks below.

Priority claim

As originally filed, paragraph [0003] of the present specification identified a provisional application to which the present application claimed priority. However, the application number was listed as "TBA." In the amendments filed on October 20, 2009, applicants amended paragraph [0003] of the specification to insert the provisional application number 60/347,440. Applicants filed a request for continued examination on November 12, 2009, requesting that the amendments of October 20, 2009, be entered, and applicants filed an application data sheet reflecting that applicants claim the benefit of provisional application 60/347,440. Despite this request, the PTO's PAIR website does not reflect the priority claim to the 60/347,440 provisional application. Applicants respectfully request confirmation that the amendment to paragraph [0003] was entered, and applicants respectfully request that the PTO's electronic records be updated to reflect the priority claim.

Rejections under 35 USC § 103(a)

Claim 19 stands rejection under 35 USC § 103(a) as being unpatentable over Alexander in view of Picco. Claim 19 is generally directed to "[a] method for displaying advertisements at a user location." Claim 19 recites that the method comprises "displaying at least one of the plurality of advertisements during a first insertion point" where "the at least one of the plurality of advertisements selected based on a user preference" and "display of an advertisement during the first insertion point is deemed appropriate based on a subscription level of the user." Claim 19 also recites that the method comprises "continuing display of the entertainment content without displaying an advertisement during a second insertion point" where "the display of an advertisement during the second insertion point is deemed inappropriate based on the subscription level of a user."

The Office Action recognizes that Alexander fails to teach or suggest "displaying at least one of the plurality of advertisements during a first insertion point" and "continuing display of the entertainment content without displaying an advertisement during a second insertion point," as recited by claim 19. (Office Action, page 3.) In an effort to cure the deficiencies of Alexander, the Office Action cites to Picco as disclosing these recitations of claim 19. (*Id.*) Specifically, the Office Action argues that Picco's step 256 in Fig. 10 reads on the "displaying at least one of the plurality of advertisements during a first insertion point"

recitation of claim 19, and that the text in col. 12, lines 37-58, of Picco reads on the "continuing display of the entertainment content without displaying an advertisement during a second insertion point" recitation of claim 19. (*Id.*) However, in contrast to the assertions of the Office Action, Picco fails to teach or suggest either of these recitations of claim 19.

First, Picco fails to teach or suggest "displaying at least one of the plurality of advertisements during a first insertion point," as recited by claim 19. Claim 19 further recites that "the at least one of the plurality of advertisements selected based on a user preference" and "display of an advertisement during the first insertion point is deemed appropriate based on a subscription level of the user." Step 256 of Picco states "select piece of local content based on user preferences" and step 258 states "splice local content into programming data." (Picco, Fig. 10.) Picco indicates that local content can include advertisements. (*Id.* at col. 6, lines 34-37.) Thus, Picco's steps 256 and 258 may indicate that an advertisement can be selected based on user preferences and that selected advertisement can be inserted into programming. However, Picco does not teach or suggest that display of the local content is deemed appropriate based on a subscription level of the user. Thus, Picco fails to teach or suggest that "displaying at least one of the plurality of advertisements during a first insertion point, the at least one of the plurality of advertisements selected based on a user preference, wherein display of an advertisement during the first insertion point is deemed appropriate based on a subscription level of the user," as recited by claim 19.

Second, Picco fails to teach or suggest "continuing display of the entertainment content without displaying an advertisement during a second insertion point," as recited by claim 19. Claim 19 further recites that "the display of an advertisement during the second insertion point is deemed inappropriate based on the subscription level of a user." The section of Picco cited by the Office Action states:

> For example, a user may want to buy an automobile and thus the only pieces of local content stored on the disk and inserted into the programming viewed by the user may be automobile advertisements. Once the user has purchased his automobile, he may indicate to the system that he no longer needs to view only automobile advertisements and *the system will adjust the pieces of local content stored on the disk and inserted into the programming data stream.*

(Picco, col. 12, lines 49-56; emphasis added.) Here, Picco describes that local content corresponding to a user preference may no longer be applicable to the user, and the system

adjusts to display different pieces of local content in the programming data stream. In contrast to this portion of Picco, claim 19 recites that "the display of an advertisement during the second insertion point is *deemed inappropriate*." (Emphasis added.) Picco does not describe that display of local content is inappropriate at all; Picco merely describes that a system will choose a different type of local content to be inserted. Also, in contrast to this portion of Picco, claim 19 recites that "the display of an advertisement during the second insertion point is deemed inappropriate *based on the subscription level of a user*." (Emphasis added.) Picco describes that the type of local content inserted into the data stream is adjusted based on the changing preferences of the user; Picco does not describe that any determination is made based on the subscription level of the user. In other words, once the user purchases the car, Picoo does not describe that the user will not receive any advertisement; Picco merely selects another advertisement to display. Thus, Picco fails to teach or suggest that "continuing display of the entertainment content *without displaying an advertisement* during a second insertion point, wherein the display of an advertisement during the second insertion point is deemed inappropriate based on the subscription level of a user" (emphasis added), as recited by claim 19.

For the foregoing reasons, applicants respectfully submit that the cited art does not support a § 103 rejection of claim 19. Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection of claim 19 under 35 USC § 103(a).

Claims 33, 38, and 43 stand rejected under 35 USC § 103(a) as being unpatentable over Alexander, in view of Picco. Although of different scope than claim 19, each of claims 33, 38, and 43 contains recitations similar to those recitations of claim 19 discussed above. For at least those reasons discussed above regarding claim 19, applicants respectfully submit that the cited art does not support § 103 rejections of claims 33, 38, and 43 . Accordingly, applicants request withdrawal of the rejections claims 33, 38, and 43 under 35 USC § 103(a).

Claims 20-28, 34-37, 39-42, and 44-47 depend, directly or indirectly, from claims 19, 33, 38, and 43. Inasmuch as claims 20-28, 34-37, 39-42, and 44-47 depend from independent claims which are discussed above, applicants submit that the cited art does not support § 103 rejections of claims 20-28, 34-37, 39-42, and 44-47. Accordingly, applicants respectfully request withdrawal of the rejection of claims 20-28, 34-37, 39-42, and 44-47 under 35 USC § 103(a).

Conclusion

Applicants believe that the present remarks are responsive to each of the points raised by the examiner in the Office Action. Favorable consideration and passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

Date: April 13, 2010

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